

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, April 14, 2004, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Eugene Carroll, Gerry Krieser, Roger Larson, Dan Marvin, Melinda Pearson, Mary Bills-Strand, Lynn Sunderman and Tommy Taylor; Marvin Krout, Ray Hill, Steve Henrichsen, Mike DeKalb, Brian Will, Becky Horner, Tom Cajka, Greg Czaplewski, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Mary Bills-Strand called the meeting to order and requested a motion approving the minutes for the regular meeting held March 31, 2004. Motion for approval made by Carroll, seconded by Sunderman and carried 6-0: Carroll, Larson, Marvin, Pearson, Bills-Strand and Sunderman voting 'yes'; Krieser abstaining; Carlson and Taylor absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION BEFORE PLANNING COMMISSION:

April 14, 2004

Members present: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, and Sunderman (Taylor absent).

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 04016, NORTHERN LIGHTS COMMERCIAL CENTER, and PRELIMINARY PLAT NO. 04010, CROSSBRIDGE ADDITION.**

Carroll moved to approve the Consent Agenda, seconded by Larson and carried 8-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand and Sunderman voting 'yes'; Taylor absent.

Note: This is final action on the Crossbridge Addition Preliminary Plat No. 04010, unless appealed to the City Council by filing a notice of appeal with the City Clerk within 14 days of the action by the Planning Commission.

COUNTY CHANGE OF ZONE NO. 04020
FROM AG AGRICULTURAL TO
AGR AGRICULTURAL RESIDENTIAL
ON PROPERTY GENERALLY LOCATED
AT N.W. 105TH & W. SUPERIOR STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 14, 2004

Members present: Larson, Marvin, Carroll, Sunderman, Carlson, Krieser, Pearson and Bills-Strand; Taylor arriving near the end of the public hearing.

Staff recommendation: Approval.

Ex Parte Communications: None.

Mike DeKalb of Planning staff submitted three letters in opposition with concerns about water supply, groundwater, habitat, and inconsistent development with the surrounding area.

The applicant was not present.

Opposition

1. Lynnette Nelson, 11402 W. Fletcher Avenue, testified in opposition. She stated that she lives within a mile of this property and that she is representing the group of neighbors living in this area. This change could allow up to 13 dwellings. This neighborhood does not have plentiful water. Many have had to install water treatment systems. Before allowing this change of zone, the property must be determined to meet the consumers' needs. No developer should be allowed to sell a lot without providing adequate water for each lot. Will the consumer be aware that the property is next to a hunting area and control burn area? She submitted photographs of a control burn that occurred yesterday. There is no water hydrant on the corner and they rely on a volunteer rural fire department using pumper trucks. If the county allows homes to be so densely constructed, it pits neighbors against neighbors and defeats the purpose of why people chose to live in the country. Stronger safeguards need to be put in place for further development. Three acres is too dense for this area. Homes should not be built next to Pawnee Lake due to the control burns and the hunting that takes place. She pointed out that the memorandum from the Health Department states that groundwater quality and quantity may be an issue—she confirmed that it is an issue for this area. The Village of Malcolm is struggling with its own water system. No company or individual can guarantee the water supply. Please do not jeopardize the neighbors' water supply by keeping the minimum of 20 acres.

Nelson submitted a petition in opposition signed by 14 neighbors who want to keep the zoning at 20 acres.

Bills-Strand addressed the staff noting that the staff is recommending approval, yet there is a comment that there is not adequate water. Bills-Strand recalled a previous acreage located next to native prairie, and she thought that the Planning Commission imposed a condition that the developer had to disclose that it was next to a control burn area when selling the property. DeKalb recalled a provision for notification on a subdivision south of Hwy 77 next to native prairie, but the County Board removed that condition. DeKalb further pointed out that if AGR zoning is put in place, there are about 15 standards that apply when located next to a state lake.

With regard to groundwater, DeKalb acknowledged that the Health Department recommends that a water report be provided; however, the staff cannot require a water report at the time of change of zone, but it would be required at the time of subdivision.

With regard to the staff recommendation of approval, DeKalb pointed out that the parcel 1.5 miles west was not shown in the Comprehensive Plan for low density residential, but this one is. The difference is that we know groundwater is an issue but it is highly variable, and this property is shown as low density residential in the Comprehensive Plan so this change of zone is in conformance.

Marvin noted one of the letters in opposition says that the property borders hunting grounds of Game and Parks. DeKalb acknowledged that both the land to the west and south is owned by the Game and Parks Commission, and the provision in the county provides setbacks for hunting areas by state law. Marvin inquired whether the setbacks are sufficient here. DeKalb responded that there can be no hunting within 200 yards of a dwelling. If the dwellings are located next to the state property, then the state is required to provide the appropriate setback on the state property.

Carroll noted that the Performance Based Standard score for this parcel is 288.3 and he wondered whether that had anything to do with lack of paved road and the water problem. DeKalb reminded the Commission that these standards have not been adopted. The reason this parcel got the higher score is because it is in conformance with the Comprehensive Plan.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 14, 2004

Pearson moved to deny, seconded by Marvin.

Pearson gave five reasons to deny: 1) there is no information on groundwater—if the information had been available, she might have looked at it differently; 2) County Engineer recommends denial because of no paving; 3) there is no acreage development in the immediate area; 4) it will increase demand on sheriff, rural fire and schools; and 5) even though it is not adopted, the performance based standard is below 300.

Motion to deny carried 7-1: Larson, Marvin, Carroll, Sunderman, Carlson, Pearson and Bills-Strand voting 'yes'; Krieser voting 'no'; Taylor abstained. This is a recommendation to the Lancaster County Board of Commissioners.

SPECIAL PERMIT NO. 04013
FOR A DOMICILIARY CARE FACILITY
AT 33RD STREET AND YANKEE HILL ROAD
PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 14, 2004

Members present: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand.

Staff recommendation: Conditional Approval.

Ex Parte Communications: Sunderman disclosed that he had a conversation with Scott Howerter—nothing specific about the project.

Proponents

1. Mark Hunzeker appeared on behalf of **The United Presbyterian Welfare Foundation**, the applicant. This a domiciliary care facility for as many as 158 occupants located at 33rd and Yankee Hill Road. The applicant has no objections to the conditions of approval.

Carroll expressed concern about the lack of street improvements for Yankee Hill Road and wondered whether Mr. Hunzeker's client had any concern about that. Hunzeker did not know the schedule for such improvements, but his client is not concerned because they do not need Yankee Hill Road for access. Access is presently available from Grainger, and as a condition of approval, they are going to have to have a final plat approved which will result in dedication, and probably construction, of 33rd Street.

Carroll inquired about the statement that this is out of the range of the fire and rescue service. Hunzeker suggested that it is no further out of their range than any of the residential properties built right across the street. It is a problem that the Fire Department needs to address over the next few years. Carroll believes this facility might use fire and rescue more than a residential area. Hunzeker did not necessarily agree. This is not a nursing home, but a residential care facility with both independent and assisted living. It would be handy to have something closer but these facilities don't necessarily like having lights and sirens on a regular basis anyway.

Pearson noted the question in the report about an outdoor recreation plan. Hunzeker noted that it is a condition of approval and it will be provided.

Dennis Bartels of Public Works and Utilities advised that Yankee Hill Road is under design now and may be under contract by the end of the year, with the intent to have it done by 2005.

There was no testimony in opposition.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 14, 2004

Marvin moved to approve the staff recommendation of conditional approval, seconded by Larson and carried 9-0: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand voting 'yes'. This is final action, unless appealed to the City Council by filing a notice of appeal with the City Clerk within 14 days following the action of the Planning Commission.

SPECIAL PERMIT NO. 04015
FOR A 15,000 SQ. FT. GARDEN CENTER
ON PROPERTY GENERALLY LOCATED
AT THE S.W. CORNER OF
S. 120TH STREET AND YANKEE HILL ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 14, 2004

Members present: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand.

Staff recommendation: Conditional Approval.

Ex Parte Communications: None.

Proponents

1. Brian Carstens appeared on behalf of **Yankee Hill Landscape Company** for the proposed garden center at 120th and Yankee Hill Road. He submitted letters in support from four adjacent neighbors. The applicant agrees with the conditions of approval.

2. Peter Schroeder, 9001 S. 120th Street, testified in support. Some of the garden center site plan is at the bottom of his property to the west and he gives vigorous approval because it is a very appropriate use of this corner. The Schroeders have lived there for 30 years and he believes the Magee family have been excellent stewards of the land in their operation of a farm on the property.

Other Testimony

1. **Bill Austin**, 301 S. 13th, appeared on behalf of a number of neighbors who had some concerns initially about the proposed garden center. But in working with the applicants and their architect, he believes they have reached an understanding which allays the concerns of the neighbors. They generally support the McGee's and their activities, but it was the nature of the use in conjunction with the residential area that caused concern.

Austin submitted proposed amendments to the conditions of approval to address some of the concerns of the neighbors, i.e. clean-up of the property; reduction of the size of the sign to 50 sq. ft.; limitation on the lighting such that it will meet the parking lot design standards; landscaping along Yankee Hill Road in accordance with design standards; limitation on hours of operation; prohibition on use of outdoor speakers; and general understanding that the proposed structure will be of new construction and meet the building code.

Pearson inquired about the new construction condition. Austin explained that there was concern that this was going to be a pole building and the neighbors did not want a used pole building brought onto the site.

Response by the Applicant

Carstens stated that the applicant has no objection to the proposed amendments.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 14, 2004

Larson moved to approve the staff recommendation of conditional approval, with the amendments proposed by Mr. Austin, seconded by Carlson and carried 9-0: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand voting 'yes'. This is final action, unless appealed to the City Council by filing a notice of appeal with the City Clerk within 14 days of the action by the Planning Commission.

SPECIAL PERMIT NO. 04017
FOR A WIRELESS FACILITY
ON PROPERTY LOCATED AT
4221 J STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 14, 2004

Members present: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand.

Staff recommendation: Conditional Approval.

Ex Parte Communications: None.

Proponents

1. Doug Rogers, testified on behalf of **US Cellular**. Due to previous experience in Lincoln, US Cellular has spent a great deal of time and energy in designing this system to help eliminate the need for any new towers; however, there are several areas that are requiring the need for a new tower to service the customer base and provide coverage for US Cellular. They attempted to locate an appropriate site; however, within the search area provided, there were no existing buildings with the height needed, nor were there any existing towers, nor was there any commercial or industrial property. Thus, they believe this site at 4221 J Street, at the rear of a church with a large parking lot, would be the best location for this neighborhood to conceal the tower as much as possible from the surrounding neighborhood. This will be a 100' tower at the rear of the church in the large parking lot. The applicant agrees with the conditions of approval.

There was no testimony in opposition.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 14, 2004

Taylor moved to approve the staff recommendation of conditional approval, seconded by Krieser.

Pearson understands that the city has indicated areas where towers would be appropriate, yet the applicant stated there was not a site available within their coverage area. Do we not have enough areas designated? Brian Will of Planning staff clarified that the city has not designated areas. A wireless facility can be allowed in any district by special permit so they are considered on a case-by-case basis. In this case, they had to demonstrate a need for the facility. There are three types of sites: preferred, limited preference and sensitive. If you are in a sensitive location, which this is, the applicant must demonstrate why they cannot locate elsewhere or collocate on an existing tower. In this case, they have demonstrated that there is no other limited preference or preferred site in the area.

As far as notification to the neighborhood, Will indicated that this site is in the Witherbee Neighborhood and he believes the applicant met with the neighborhood association. Rogers confirmed that they did have two meetings with the Witherbee Neighborhood Association, one with the Board and one with the entire neighborhood.

Taylor commented that he appreciates the patience and assistance in putting this together to see that we have good cell communication, even though we don't like the towers.

Motion for conditional approval carried 9-0: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand voting 'yes'. This is final action, unless appealed to the City Council by filing a notice of appeal with the City Clerk within 14 days of the action by the Planning Commission.

COMPREHENSIVE PLAN AMENDMENT NO. 04001
TO ADOPT THE "NORTH 48TH STREET/UNIVERSITY PLACE
PLAN: NEIGHBORHOOD REVITALIZATION & TRANSPORTATION
ANALYSIS, 2004" AS AN APPROVED SUBAREA PLAN,
GENERALLY LOCATED BETWEEN N. 46TH AND N. 56TH STREETS
FROM FRANCIS STREET TO ADAMS STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 14, 2004

Members present: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand.

Staff recommendation: Conditional Approval.

Ex Parte Communications: None.

Steve Henrichsen of Planning staff submitted a letter from Dr. Charles and Mary Ann Genrich with concerns about closing St. Paul east of 48th Street and how that might affect their private parking lot to the west and south of their building.

Bills-Strand commented that she has a problem with getting this 98 page document on Good Friday and being expected to review and vote on it today. She would like more time to review a report of this depth in the future.

Proponents

1. Wynn Hjermstad of the **Urban Development Department** and **Kelly Sieckmeyer of Public Works & Utilities** were the co-project managers. Hjermstad gave a broad overview of the project, the process and the next steps. The issues are traffic on 48th Street and community revitalization. Former Mayor Wesely had directed that all of the groups and issues be brought together to come up with some coordinated ways to address the concerns in the area. The first step was to go to the major stakeholders in the area and ask them to partner, including University Place Community Organization, the North 48th Street Business Association and Business Improvement District, Nebraska Wesleyan University and University of Nebraska-Lincoln, and they all wanted to be a part of the plan. The consultants, Schemmer Associates and RDG Planning & Design, were hired to help develop a plan to resolve the conflicts between transportation and community revitalization.

There was a task force of 35 members, including other stakeholders such as UNL East

Campus, Neighborhoods, Inc., Huntington Elementary School, First United Methodist Church, and other owners in the area. The task force met about nine times and did a lot of outreach to try to address the broader public through a project website and email address. There were two rounds of intensive workshops involving focus group meetings, in addition to a two-day design workshop. The result of all that public input led directly to the concepts presented in this plan. There was definitely consensus from the task force. There are some people with specific concerns particularly related to parking and access problems.

Hjermstad emphasized that this is a concept plan. It is still in the broad concept level. As they get into implementation, they will continue to work with the business and property owners in the area.

Hjermstad expressed appreciation to the task force members, the consultants and other city departments that were involved, i.e. Police, Parks, Building & Safety, Planning, Public Works and Urban Development.

The next step is for the implementation committee to begin to work to prioritize the projects and start to identify funding sources. They will be back before the Planning Commission in the future to amend the redevelopment plan to incorporate some of the concept plan.

2. Kelly Sieckmeyer stated that it has been a great partnership where they tried to build consensus. He believes that the consultants and task force did a really good job of blending everything together.

Bills-Strand suggested that the Planning Commission members would like to have a noon briefing prior to taking action on this plan.

3. Steve Guittar testified in support on behalf of **University Place Business Association**, as chair of the **Business Improvement District** and as a property owner on N. 48th Street. He also resided in this district for 15 years. When this plan began, a lot of the individuals who had been involved since 1997 in the blight study and in the first redevelopment plan were skeptical that it would lead to a further delay; however, he found it to be an outstanding example of cooperation with the various city departments and the various other stakeholders. Issues reviewed were traffic problems generated through the North 48th Street Corridor, pedestrian safety, parking, and encroachment of Wesleyan's parking into the neighborhoods. He believes that the task force has come up with the balance that will be a huge benefit to the people in the district and to the city. University Place has been a vital commercial corridor for the city for the past 100 years. There were significant vacancy rates at the time of the blight study, and there has been a lot of private investment and confidence in the district, resulting

in extremely low vacancy rates now. A lot of the private investment is happening and a lot of the older buildings are being renovated. He urged the Commission to move forward on this and support the efforts of the residents, business owners, property owners and other stakeholders.

4. Larry Zink, immediate past president of **University Place Community Organization**, 4926 Leighton Avenue, presented a Resolution by UPCO passed at its regular meeting on April 14, 2004:

Over the last year, representatives of the University Place Community Organization (UPCO) were active participants in the North 48th Street and University Place Study, along with representatives from the University Place Business Association, Nebraska Wesleyan University, University of Nebraska-Lincoln, several city departments and members of the University Place neighborhood. The UPCO Board commends the city's Urban Development Department, Public Works and Utilities Department, and Planning Department for their leadership and support of this inclusive neighborhood planning process and supports the inclusion of the North 48th Street and University Place Plan and its recommendations into the Lincoln/Lancaster County Comprehensive Plan.

Zink stated that he was an active participant in the task force and was impressed with the cross-section of neighborhood interests that came together in the process. There was a tremendous opportunity for public input. There was a wide range of interrelated concerns and issues between the neighborhood and the business district. It would not be accurate to say the range of recommendations in this plan represent a unanimous view of the neighborhood or the task force; however, it is accurate to say there was a strong majority of the task force for each of the recommendations. The neighborhood appreciates that this is not a process that was finished. If this is adopted, it represents just a beginning and offers the neighborhood a unified vision and blueprint to work together over the next several years. He expressed appreciation to the Urban Development Department, Public Works & Utilities Department and the Planning Department, for their leadership and support and urged the Commission to adopt this plan as an approved subarea plan of the Comprehensive Plan.

Opposition

1. Marilyn Schnieber Gade is opposed to the closing of St. Paul Street. Her family has owned property in the University Place area over 50 years at 2700, 2710 and 2714 N. 48th. She had always envisioned some kind of corridor or boulevard. This plan closes St. Paul Street, making it a barrier to both the church and Nebraska Wesleyan. There will no longer be a traffic light on St. Paul, and they will not promise another traffic light at Madison.

2. Clark Chandler, Vice-President for Finance and Administration at **Nebraska Wesleyan University**, 4641 Pioneer Greens Court, thanked the task force for its work. This process has allowed Wesleyan to revisit its campus master plan. Chandler proposed an amendment in two sections of the plan relating to the Wesleyan campus domain, requesting that the “campus domain” be changed from “one-half” block to “one” block north, west and south of the Nebraska Wesleyan Campus.

Bills-Strand asked when Chandler received a copy of the final analysis. Chandler stated that they received it sometime in the last few weeks, but there was one language change Wesleyan had requested so they did not get the final plan until late last week.

3. Mark Hunzeker appeared on behalf of **Williams Cleaners**, which has been located in University Place for a very long time at the corner of 48th & Baldwin. Their concern has to do with the access to their establishment from 48th Street. The proposal is to make the intersection of 48th & Baldwin a right-in right-out onto Baldwin from 48th Street. That will make the access to their drive-thru entrance very, very difficult from both directions. It will encourage people making both left turns from 48th northbound, and left turns out of their establishment northbound at an angle, which is both unsafe and inconvenient. The construction of a pork chop island on the west leg of the intersection will create a difficulty for even southbound traffic. Williams Cleaners has been one of the stalwart businesses of the University Place neighborhood for a very, very long time. They have reinvested in the area at times when it would have been easily more convenient to go elsewhere. Williams Cleaners believes that as a general proposition this is a good plan, but there needs to be some serious consideration given to eliminating that aspect of this plan. The west leg of that intersection of 48th and Baldwin should be able to receive left turn traffic from the northbound lanes and also permit right turn traffic in the southbound lanes to get into their store, without being blocked by a median. He believes this concern deserves to be included in the Commission’s recommendation in terms of the owner that has been there and in this business community for a very long time.

Response by the Applicant

Carroll asked for an explanation of the consultant work. **Mark Lutjeharms of Schemmer Associates** stated that beginning in May 2003, Schemmer Associates performed a series of data collection activities of turning movements, daily traffic counts and origin and destination. They then took that information and with the task force developed five transportation alternatives to investigate as part of this plan. One of those five alternatives is the one that fits best with the redevelopment concept.

Marvin asked about the St. Paul and Baldwin issues. Lutjeharms stated that the primary deficiency of the North 48th Street Corridor is lack of left turn lanes except for Leighton Avenue and Adams Street. This plan tried to focus those left turns at two specific locations –

Huntington and Madison – therefore, it does require some circuitous routing, but it does provide a refuge for left turn vehicles.

Carlson assumes, then, that this plan attempts to make some accommodation for the through motion on 48th Street. Lutjeharms submitted that presently, North 48th Street between Adams and Leighton is carrying 25,000 vehicles per day without origins and destinations in the project area. The intent is to provide provisions for those vehicles as well as those trying to get to specific destinations within the project area.

Marvin inquired whether this plan would be an improvement for through traffic. Lutjeharms answered in the affirmative, stating that it removes the left turn vehicles from the inside lane. It does require somewhat of a more indirect route than today, but they believe that there will be some provisions for additional signage to parking areas.

Bills-Strand wondered about adding one or two more left turn lanes. Lutjeharms stated that they could not put left turn lanes at St. Paul because any widening would have substantial impact on the property owners.

Pearson inquired about the current speed limit. Lutjeharms believes the current speed limit is 25 and they are not proposing any change in the posted speed limit. Pearson wondered about decreasing the speed limit. Lutjeharms noted that it was not a recommendation because 48th is still an arterial street carrying a high number of vehicles.

Pearson asked the consultant to speak to the closing of St. Paul east of 48th Street. Lutjeharms stated that there are definitely traffic benefits, but this closure was more from a redevelopment side. **Marty Shukert, RDG Planning & Design** also responded, stating that the concept of the plazas at St. Paul are complex interrelationships of redevelopment opportunities and traffic movement. The most logical locations for left turns are at Madison and Huntington. Because of the nature of the building configuration, we could not provide a left turn at St. Paul without basically destroying the district. Given the number of traffic signals that we have to play with in that stretch, that, of course, suggests eventual signalization at Madison and Huntington. The issue related to St. Paul then relates to the fact that because of land use there will be significant pedestrians who will want to cross at that location; however, pedestrian signals cannot be placed in open intersections, so that led to the concept of making that intersection for pedestrians, developing two pedestrian plazas and providing free-flowing pedestrian movement across the street. There is a real logic to why that decision was made, given the premise of trying to control left turning traffic in the logical locations we could control it, while making the center of the district more open and friendly to pedestrians.

Shukert went on to state that the pedestrian plazas in the center of the district have the impact of creating a public square, where events can be held that are not affected by the traffic noise--where the district can come to life. We thought that the plazas, combined with a redesign of

the parking facilities, make them much more accessible and functional from Huntington and Madison, and provide both good traffic movement and subsequent redevelopment opportunities. Shukert disagrees that this will negatively affect the businesses. In fact, he believes it is an opportunity to bring economic life and vitality to those adjacent buildings, and ultimately, he believes the interests of transportation and revitalization will coincide.

Pearson was trying to contemplate a development with two pedestrian plazas with a major street and high traffic going through the middle of it. Shukert stated that the pedestrian crossing can be a diagonal movement.

Bills-Strand referred to Dr. Genrich's letter and the concern that the closing of St. Paul will add 50 more cars onto narrow residential streets, etc., and they will lose their parking lot. Shukert indicated that some of those issues are issues that get worked out in the detailed design of the Plan. On the north side of St. Paul between 48 and 49th, the redesign of the lots north of St. Paul are really designed to provide better traffic flow and functionality. It does not necessarily mean that parking that is currently private needs to be public. We wanted to have a good directional flow that made sense.

The dentist office would still have the capacity of controlling that parking, assuming they maintain private operation over the stalls. The plan also includes diagonal parking, which adds to the parking supply on St. Paul Avenue. We were also able to propose removing a few stalls in front of that building and landscape that area, which is not absolutely necessary.

In the next step of implementation, Carroll inquired as to the top priority to start the ball rolling. Shukert stated that there is an implementation committee which will discuss the various features and options in the Plan and decide where to focus. The obvious one is the streetscape, and there is some modification in that. In Shukert's opinion, one of the top priorities of the plan and where considerable effort should be focused is the Green property. It is a site that can be established as commercial, residential or office development and take a piece of land that is very strategic and use it as a way to cement the district and create the sort of long sought-after merger between Wesleyan campus and the University Place commercial district. He would also suggest addressing the overall implementation of traffic scheme and look carefully at the neighborhood stability and rezoning issues, i.e. multi-family versus single family zoning. People should be able to have some certainty that investment in their homes is safe. Carroll asked whether Shukert would look at changing the zone of all of that area. Shukert stated that they had looked at the specific structure of blocks – the number of structures that were owner versus renter occupied – and came up with a specific conversion rule. The rezoning concept really establishes rules that are based on the current occupancy of each of those blocks. Owner occupied blocks should ultimately be R-2. Those parts more multi-family or rental should logically go to a more high density multi-family zone. In those areas where owner occupancy is desirable, community development programs could be implemented such as buying houses that might come available and recycling them for owner-occupancy.

Bills-Strand indicated again that she would prefer more time to drive the area and further review the plan. Hjermstad also suggested that given the proposed amendment by Nebraska Wesleyan and some other concerns raised, Urban Development would like a little more time to work through the issue and some of the terminology.

Taylor moved to defer four weeks, with continued public hearing and administrative action on May 12, 2004, preceded by a 11:30 a.m. briefing, seconded by Carroll and carried 9-0: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand voting 'yes'.

ANNEXATION NO. 03001;
CHANGE OF ZONE NO. 3398,
FROM AG AGRICULTURAL TO R-3 RESIDENTIAL
AND H-4 GENERAL COMMERCIAL;
SPECIAL PERMIT NO. 2004,
FOR PLANNED SERVICE COMMERCIAL;
and
PRELIMINARY PLAT NO. 03004,
NORTHBANK JUNCTION,
ON PROPERTY GENERALLY LOCATED
AT NORTH 56TH STREET AND ARBOR ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 14, 2004

Members present: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand.

Staff recommendation: Approval of the annexation, subject to an annexation agreement; approval of the change of zone; and conditional approval of the special permit and preliminary plat.

Ex Parte Communications: Marvin stated that he had a conversation with Peter Katt about the number of units and the time it will take to bring these units onto the market.

Proponents

1. **Peter Katt**, appeared on behalf of **Hartland Homes**, one of the co-applicants. This has been a long time coming. The benefit of this project to the city is that it opens up an entire new basin of development in Lincoln for both commercial and residential development. As you know, there is an increasing concern about the ability for affordable lots on the market and he believes that over the last 6-9 months, the city staff has made a concerted effort to get this project moving forward. The history of this project dates back to the 1995-96 Comprehensive Plan. At that point in time, this part of north Lincoln was shown as a desirable growth area.

At that time, Hartland Homes was looking for a place to project its future growth and used the Comprehensive Plan as a planning tool. Hartland acquired the 140 acres in this project in 1998. In about 1999, Katt's office started the efforts to encourage the city to begin the process of extending the water and sewer into this area. Today, the water lines that will serve this area are approximately ½ mi. south of Salt Creek, as well as the main trunk sewer line. From 1999-2000, Hartland Homes was not actively pursuing but was having discussions with the city and encouraging that these improvements occur. In about 2000, in order to help bring a greater critical mass, and since there was not a whole lot of success getting water and sewer lines, a greater coalition was formed, called the "Star City Combine" consisting of 26 property owners controlling 600 acres lying north of Salt Creek, south of the Interstate from 70th Street to ½ west of 56th Street. For the next two years, Star City negotiated with the city to get water and sewer, but never got over the hurdle.

About 1 ½ years ago, it was becoming critical for Hartland to open up a new area in Lincoln. Mr. Schwisow, who acquired the property on the south side of Alvo Road, joined with Mr. Hartland and brought forward this proposal.

Katt stated that the conditions of approval are acceptable to the applicants. The developers are excited about reaching the next phase of their challenge, that being to find a way to get the water and sewer actually extended up so that they can connect to it. Currently, these improvements are not even in the CIP. The proposal from staff is to include them in the next CIP. Arbor Road would be improved in 2009, with wastewater in 2007-08 and the water in 2005-06. The developers are hopeful to find a way to somehow get those improvements put in sooner rather than later. They continue those negotiations with city staff in the annexation agreement.

There was no testimony in opposition.

Carroll referred to #5 in the analysis regarding the annexation agreement, which suggests that this proposal be delayed until the CIP is heard by the City Council. Becky Horner of Planning staff stated that the CIP is scheduled later this year and the Planning Department would like to hold this application on pending so that this proposal can be heard at the same time as the CIP/budget because this project could possibly alter the CIP.

Carroll noted that there is discussion in the staff report about part of the property being in an environmental resource area and the different street problems with turning radius, grading, etc. Dennis Bartels of Public Works explained that some of the Public Works comments are just details and corrections normally seen with a preliminary plat and we can take care of most of them with revisions to the grading plan. Part of the property drains toward the south toward Salt Creek where there are wetlands, floodplain and floodway, and it was identified as a natural resource area in the Comprehensive Plan. The Comprehensive Plan defines a 500 ft. buffer. In Mr. Schwisow's project, he had permits to do some grading that already got into

that 500 ft. buffer before the plan was adopted. In these plat negotiations, the cul-de-sac that went south toward that area was reduced in length and Public Works thought it was a reasonable accommodation of the natural resource area. Public Works and Watershed Management were making some suggestions to work out issues such as water quality and quantity that goes into those wetlands. Public Works is satisfied with what they submitted, subject to the specific provisions that Public Works is requesting be done. By providing the detail being requested, Bartels believes they would meet the present design standard and floodplain ordinance requirements.

Carlson commented that if the Comprehensive Plan does not provide enough guidance to protect environmentally sensitive areas, when will we have rules that give us enough guidance to protect these areas? Bartels stated that a lot of sensitive areas are identified in this area next to Salt Creek between 27th and 56th. There is a committee of technical people working to provide some of that guidance now. Mike DeKalb of Planning staff also indicated that there are several efforts going on and there are some meetings scheduled with landowners in the areas to get a better refinement of the policy established by the Comprehensive Plan. Beyond that, staff is working with Game & Parks, Parks & Recreation and the UNL entomologist for better refinement and the need for the buffer. Carlson hopes that we have some environmental resources left by the time we get the rules established.

Pearson inquired as to which applicant owns the property that was filled. It was indicated that Schwisow owned the property, purchasing it in 2000. They did the fill in 2001. Pearson stated that she intends to make an amendment that, "the applicant will rebuild and restore, to the best of their ability, the Category III wetlands, the floodplain and the 500 ft. buffer to the saline wetlands." Jeff Wagner, engineer for the south part of this project, explained that the applicant applied to the Corps of Engineers and went through an individual permit process which goes through DEQ – that permit has been approved. They have mitigated the existing wetlands at the ratios required. The plan shows two mitigation areas, one to the very south and one along the west property line. The cells they have developed have met the mitigation requirements for the areas that were disturbed.

Pearson wants to know if the applicant would accept her proposed condition. Wagner believes that what is being proposed as a condition has already been met. The proposed grading plan shows that they have compensated for the wetlands that have been disturbed.

Peter Katt then responded to the proposed amendment. His concern is whether it means mitigation of the original wetlands (which is irrelevant at this point), or mitigation of the mitigated wetlands that are in place and shown in the grading plan. It needs to be clear. This has been reviewed by those agencies that have expertise in protection of the environmental resources. The project on the Schwisow property was a creative use of that property. There were concerns about bank stability. The engineers went in and looked at the site and vastly improved its environmental performance, had a cost-sharing arrangement with the NRD, and

got full approval of the Army Corps of Engineers. That stability and improvement are not the kind of things that can be done unless there is some economic value created in this property. It is this plat that allows some economic value for our community. Katt believes that what Pearson is attempting to amend into the conditions is already assumed in the staff recommendation. Environmental resource protection is not one that staff has overlooked on this project.

Wagner further responded, stating that a floodplain permit was obtained prior to any of the fill being placed on that development. The fill was not placed in the existing wetlands. Wagner suggests that the wetlands have been degraded because the area was farmed prior to this development.

Pearson again asked whether the applicant would accept such an amendment as she is proposing. Brian Carstens then spoke on behalf of Schwisow, stating that they have already been through the process of getting a floodplain fill permit and the architect has worked to get the Corps permit. The Corps is satisfied, the NRD is satisfied, and staff is satisfied. This developer has done everything that he can. Pearson was concerned about the statement in the staff analysis that, "...Unfortunately, the developer previously obtained fill and grading permits to grade and fill the site. Natural resources in the area have been degraded such that restoration of the Category III saline wetlands is probably not possible." Carstens stated that the wetlands are being restored as part of the 404 permit. When you add the word "floodplain", it has a broader interpretation. There is probably 40' along the western 500 ft. buffer on the western side. Then further south it does approach probably 200'.

Roger Schwisow, the owner and applicant, stated that the ground was farmed right up to the edge. It is not anything he destroyed or disturbed. There never was a 500' buffer. It was farmed right within 10' of the fence line. This whole field was farmed before he bought it. He has not disturbed anything at all. There were some minor areas that had wetlands, which is even questionable because they were man-made ditches.

Pearson then asked Planning staff to respond. Horner stated that staff would have preferred that no fill had been done and that the area had been maintained as what it was classified by Game and Parks, which was Category III saline wetlands. The Watershed Management comments talked about re-categorization, which is a possibility. The applicant could have asked for re-categorization. The staff was using the most current map. Then during review, the staff obtained the materials indicating the completed 404 permit and information with regard to floodplain fill. The environmental resources represent floodplain and saline wetlands. The number 500' was suggested because of the Mayor's Tiger Beetle policy. Game and Parks is currently working on studies to gather better scientific information as to the amount of buffer needed. In this proposal, areas that would have been part of the 500' buffer would have been degraded and if we amended the Comprehensive Plan, we would have removed this area from environmental resources. This area still encroaches a little bit

to the west because the floodplain goes up to the property line. They would be within the 500' buffer to the west, but there are no design criteria standards by which to review this.

Carroll acknowledged that the new floodplain standards are not in effect, but inquired whether this plat would comply. Horner indicated that this plat would be grandfathered as an approved preliminary plat. Bartels did not believe the staff has the information to compare this proposal with the new standards. The area graded met all of the standards but he does not know whether it would meet the no net rise standard without further information from the developer.

Wagner offered that in order to obtain the floodplain permit, they were required to do a no rise permit for the area of floodway and floodplain. There is no net rise in the floodplain.

Peter Katt also pointed out that Conditions #1.1.1 and #1.1.2 on the preliminary plat are required before going forward. The developer must make revisions to the plans to the satisfaction of Public Works. As far as the concern about environmental resource designation and the 500' buffer, Katt reminded the Commission that these property owners are participating in the current process. There is a group called SWAT (saline wetlands action team), jointly funded by the city, the NRD and Game and Parks, and Katt has been active in pushing them to come forward with a plan on behalf of his client. They are making progress. However, the components in this area are not the high category wetlands, but there are some in the vicinity. This development will not have a material impact on those wetlands. The owners are committing to do what they can. If there was a plan, they would agree to comply, but there is no consensus, no plan, no nothing in terms of deciding what it needs to be. It seems unfair to hold anyone back while there is no consensus as to the amount of the buffer, etc. This project is not the problem. The next ones that come will create more challenges. These owners are both cooperative in that process.

Pearson again stated that she intends to make an amendment and wondered where it would apply. Horner suggested that it would be a condition of the preliminary plat.

Rick Peo of the City Law Department suggested that the amendment be clear as to whether the intent is to restore the property back to the prior status quo. Pearson stated that she was going to propose that the applicant rebuild and restore, to the best of their ability, the saline wetlands and the appropriate buffer. Peo cautioned that "rebuild and restore" could be at a different location based upon a mitigation plan.

ANNEXATION NO. 03001

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 14, 2004

Marvin moved approval, seconded by Larson and carried 9-0: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 3398

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 14, 2004

Larson moved approval, seconded by Sunderman and carried 9-0: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 2004

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 14, 2004

Larson moved to approve the staff recommendation of conditional approval, seconded by Krieser and carried 9-0: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

PRELIMINARY PLAT NO. 03004

NORTHBANK JUNCTION

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 14, 2004

Prior to any motion being made, Marvin Krout, Director of Planning, approached the Commission to discuss the amendment Pearson indicated she was intending to make. He believes that such amendment is going to create real difficulties in interpretation. He does not know what "best of their ability" means, but if you say they will restore the 500' buffer to the best of their ability and at the same time you are approving a plat with lots in the 500' buffer, that is not a clear direction for the staff. The developers have gone through a mitigation process; we are looking at the 500' area being a degraded area; they have mitigated to some extent for that; we think that the 500' buffer rule is an arbitrary number that needs to be looked at more carefully in terms of protecting habitat; and we don't have standards, so we are getting into that area of approving a plat without design standards in order to justify a goal that we have in the Comprehensive Plan that we have not fleshed out. He believes the amendment is premature. As we move west in this half section of land, we are entering the area that really is more critical in terms of habitat and that is why we are trying to get the scientists to sit down and figure out what we really need, and try to get the property owners involved before they submit plats. In the end, it probably has more to do with a revenue source to buy the land if we need those buffers. He is concerned that the suggested amendment is not possible for the staff to interpret. If the intent is not to approve lots in a 500' buffer area, he suggested that be the motion; however, Planning and Public Works do not believe there is enough justification legally or in terms of what is on the ground today to support that.

Pearson was offended because she wanted to get a motion on the floor before hearing comments.

Larson moved to approve the staff recommendation of conditional approval, seconded by Krieser and carried 6-3: Larson, Marvin, Taylor, Sunderman, Krieser and Bills-Strand voting 'yes'; Carroll, Carlson and Pearson voting 'no'. This is final action, unless appealed to the City Council by filing a notice of appeal with the City Clerk within 14 days of the action by the Planning Commission.

Pearson expressed her dissatisfaction because she was intending to make an amendment as previously discussed and believes the vote was taken too quickly. She was unsure when she should have made the motion to amend. The Clerk explained that the appropriate time to make a motion to amend is once the main motion has been moved and seconded. There was no motion to reconsider.

COMPREHENSIVE PLAN AMENDMENT NO. 03007
TO REMOVE A STATEMENT RELATING TO THE
FUTURE DETERMINATION OF COUNTY IMPACT FEES.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: April 14, 2004

Members present: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand.

Staff recommendation: Approval of alternate language under Planning Department memorandum dated April 8, 2004:

As called for in the adopted Comprehensive Plan, an independent study to quantify the economic impacts of acreage development has been completed. The study's conclusions and the subsequent public dialogue suggests the County and City continue to look at ways to contain public costs and coordinate public resource allocation, especially in the area of road construction. A variety of management techniques could be used, including the shared engineering and funding of road projects that aid urban expansion and adoption of rural land use policies that minimize future capital and operating costs.

Ex Parte Communications: None.

Mike DeKalb of Planning staff suggested that the alternate language now being recommended by staff was distributed to the County Board and there has been no response. This is an attempt to bring the bodies together with something that is acceptable.

Proponents

1. Ray Stevens, Lancaster County Board of Commissioners, testified that the County Board has not had the opportunity to discuss the alternate language submitted on April 8th. They did not receive it until Friday, April 9th. The Board has already gone through two options.

The first option was to modify the paragraph on p.71, and their second option was to delete the paragraph in its entirety, and that was the last recommendation that the County Board had discussed and agreed upon—to delete the paragraph in its entirety. The Planning Department then submitted their first alternate language, which the County Board evaluated and said they did not like, and now the Planning Department has come up with a second alternative. Stevens suggested that this amendment is now before the Planning Commission and at this point it should be a decision of the Commission. He stated that he was speaking on his own behalf as a Board member and not for the entire Board.

Carlson asked why the statement should be removed. Why delete the cost of services study reference? Stevens stated that he was not aware that it says anything that should be in the Comprehensive Plan and it was a good way to shorten the Plan by deleting it. He does not know what the paragraph buys or does not buy, what it precludes the County Board from doing or not doing. The study has been done and the Board has seen it. He does not see a need for a study that is already done. Now what is done with that study is something else. Carlson does not understand why we should take out the historical reference to its existence. Stevens does not see that the paragraph added anything to the Comprehensive Plan.

Marvin noted that there are a lot of studies that are being done that are recommended in the Comprehensive Plan, e.g. the Multi-Modal Study is underway and he does not know that once it is completed that the language in the Comprehensive Plan will be removed. Marvin Krout, Director of Planning, indicated that once a study is completed, the staff would come to the Commission during the next annual review of the Comprehensive Plan and say it is time to update that paragraph. We would come forward with some type of implementation recommendation based on that study.

Stevens reiterated that the independent study has been done. The paragraph goes on to state that the County should determine if impact fees or other exactions are needed, and the County Board has determined that the answer is no, at this time. There is nothing in the Comprehensive Plan that would preclude the Board from considering that in the future.

Opposition

1. Cecil Steward, 125 N. 11th Street, submitted a prepared statement in opposition to removing the statement from the Comprehensive Plan, although he has not seen the latest Planning staff recommendation so he can neither support nor oppose that alternative language. For the first time in history, the Comprehensive Plan recommends this city/county jurisdiction to marry the plan with the available capital improvement resources and to adjust the two to be in balance to the best of your abilities. Without the language which requires the County Board to consider the cost impacts and coverage of costs for development throughout the county, the planning and political environment will be no better than a microcosm of the Unicameral – which is unacceptable to Steward. The Cost of Rural Services Study is credible, it reaches similar conclusions of other national studies, and it does signal the need

to gain control over the costs of low-density development at the edges of our community. Impact fees, or some exaction of the costs of publicly financed infrastructure, will be necessary sooner or later in this projected growth, irrespective of the current court case, or the Comprehensive Plan will need to be diminished in its scope.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 14, 2004

Carlson moved to approve the staff recommendation dated April 8, 2004, seconded by Carroll.

As called for in the adopted Comprehensive Plan, an independent study to quantify the economic impacts of acreage development has been completed. The study's conclusions and the subsequent public dialogue suggests the County and City continue to look at ways to contain public costs and coordinate public resource allocation, especially in the area of road construction. A variety of management techniques could be used, including the shared engineering and funding of road projects that aid urban expansion and adoption of rural land use policies that minimize future capital and operating costs.

Carroll understands the County Board's aversion to the term "impact fees" and why they want it removed, but the study has been done and you cannot just "stick your head in the sand". He just does not see how the County Board can have a problem with saying that they need to look at the economic impacts that acreages do have on the city and county and consider ways to contain public costs. They cannot be against containing public costs and that idea should be in the Comprehensive Plan. He does not believe that ignoring this study is acceptable. He believes that the language staff has now recommended is very good. It deletes the reference to "impact fees", but it still says that the county and city will work together to provide better containment of public costs. Carroll is in favor.

Marvin stated that he will vote in favor of the language; however, it is his opinion that the first staff recommendation is better. The cost of services study provides a benefit and allows people to understand. If the County Board wants to use exactions for turn lanes or to get right-of-way or all kinds of other necessary things needed to expand the road network out in the county, they can look at the cost of service study and see that there is a cost and tell people that they have to bear part of the cost. The purpose of the study is to provide that kind of cover – to say we would like 120' of right-of-way, that we would like a turn lane into the development, or help on turn lanes at the mile points. These are not real expensive demands, but you open yourself up to the rational nexus argument if the reference is completely deleted.

Larson agreed. He does not see how the County Board could object to this language.

Carlson does not believe the issue is impact fees. The issue is about costs, and it is important for people to understand that there is a cost to these policy choices. The County

Board's application at best, is mysterious, and at worst, is frankly outrageous. He does not know how they can pretend that that study does not exist. We need to be answerable to the voters. The worst government is government that gets answers and data and hides it in the drawer. We have genuine costs out in the county and the County Board should stand up and tell why they are spending their money the way they are.

Motion to approve the staff alternate language dated April 8, 2004, as set forth above, carried 8-1: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Pearson and Bills-Strand voting 'yes'; Krieser voting 'no'. This is a recommendation to the Lancaster County Board of Commissioners and the City Council.

STREET & ALLEY VACATION NO. 03023
TO VACATE THE NORTH 10' OF Q STREET
GENERALLY LOCATED AT NORTH 8TH STREET
AND Q STREET.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: April 14, 2004

Members present: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand.

Staff recommendation: Deferral until May 26, 2004, at the request of the applicant.

Ex Parte Communications: None.

Carroll moved to defer, with continued public hearing and administrative action scheduled for May 26, 2004, seconded by Carlson and carried 9-0: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand voting 'yes'.

There was no public testimony.

WAIVER NO. 04005
TO WAIVE THE LOT DEPTH-TO-WIDTH RATIO
AND SIDEWALKS, ON PROPERTY GENERALLY
LOCATED AT S. 37TH STREET AND CALVERT STREET.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: April 14, 2004

Members present: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand.

Staff recommendation: Approval.

Ex Parte Communications: None.

Proponents

1. Mark Hunzeker appeared on behalf of **Bill Hempel**. This is a resubdivision of a couple of lots in the vicinity of 37th and Stockwell. There are two houses on one of the lots and the house at the back is the house in which Mr. Hempel and his wife live. The purpose of this waiver is to acquire a portion of the back of the lot next door to add to the yard space for that house, and to then create three separate lots for the existing houses and out buildings. The waiver of the depth-to-width ratio is needed for the lot identified as Lot 3, and the sidewalk waiver is needed for the frontage along S. 37th Street. The only sidewalk in this area is along Calvert Street, and then on one lot on the west side of 37th Street, which is on the opposite side of the street. To the extent the sidewalk might be appropriate, it goes nowhere and leads nowhere.

Bills-Strand noted that the Commission did receive letters from a neighbor in support.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 14, 2004

Sunderman moved approval, seconded by Krieser and carried 9-0: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand voting 'yes'. This is final action, unless appealed to the City Council by filing a notice of appeal with the City Clerk within 14 days of the action by the Planning Commission.

ITEMS NOT ON THE AGENDA

April 14, 2004

Members present: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand.

Bills-Strand inquired whether the Commission would be interested in making a motion to direct the staff to draft legislation to deal with the grandfathering of existing uses that would be affected by the liquor special permit ordinance in the event of a catastrophic event, remodeling or expansion.

Marvin Krout, Director of Planning, believes there is an adequate process in the zoning code which allows for a special permit to be requested to waive the fact of a nonconforming use for those standards, and there may be some reasons why that may be desirable to review on a case-by-case basis. If you exempt all of these uses in a blanket manner, you may end up with some nonconforming uses in some neighborhoods that are nuisances today and we would like to see them eventually terminated rather than expanded, or at least treat them on a case-by-case basis.

If the Commission desires to treat all of them as pre-existing, then the Director would prefer a motion so directing staff to prepare the draft amendment.

No one made the motion.

There being no further business, the meeting was adjourned at 3:55 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on April 28, 2004.

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